



REPUBLIC OF KENYA



KENYA LAW
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**Asa Limited v Kimondo & 20 others (Cause 35 of 2016)
[2023] KEELRC 1169 (KLR) (5 May 2023) (Judgment)**

Neutral citation: [2023] KEELRC 1169 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 35 OF 2016
NJ ABUODHA, J
MAY 5, 2023**

BETWEEN

ASA LIMITED CLAIMANT

AND

IMMACULATE WANGARI KIMONDO 1ST RESPONDENT

ZION O OBONYO 2ND RESPONDENT

ESTHER SYOKAU NZAVI 3RD RESPONDENT

ESTHER MUTETHYA MWANGANGI 4TH RESPONDENT

DORCAS ANYANGO SULEIMAN 5TH RESPONDENT

FELISTUS NYAGUTHI KANDIA 6TH RESPONDENT

IRENE WANJIRU MBURU 7TH RESPONDENT

BENJAMIN NJARIA GACHANJA 8TH RESPONDENT

SIMON THIRIKWA GITHINJI 9TH RESPONDENT

PETER WABWILE WAFULA 10TH RESPONDENT

RAPHAEL ABAYA ABUGO 11TH RESPONDENT

BRENDA WANGECHI KIHARA 12TH RESPONDENT

MC DONALD OTIENO OGUTU 13TH RESPONDENT

KIOKO KILONZO 14TH RESPONDENT

CHARITY KINYA GITONGA 15TH RESPONDENT

IMMACULATE WANGARI IRUNGU 16TH RESPONDENT

FAITH KHALAYI WABWILE 17TH RESPONDENT



SARAH WANJIRU MUCHIRI	18 TH RESPONDENT
MERCELINE NDINDA MUTUNGA	19 TH RESPONDENT
ALVIA K. SHIKALI	20 TH RESPONDENT
BRIAN OMONDI OUMA	21 ST RESPONDENT

JUDGMENT

1. The Claimant herein through a memorandum of claim filed on 15th January, 2016 pleaded among others that;
 - a. The Claimant is a Limited Liability Company duly registered under the *Companies Act* Cap. 486 Laws of Kenya carrying on its activities within the Republic of Kenya.
 - b. The Respondents are all former employees of the Claimant herein, male and female adults of sound mind and disposition residing and working for gain within the Republic of Kenya, Service of summons shall be effected through the Claimant's advocate offices.
 - c. All the Respondents herein by virtue of different express terms of agreement were its employees as loan officers on diverse dates between the year 2013 and 2015.
 - d. As a result of the above breaches and neglect of duties by the respondents, it has incurred immense damages and losses which it now claims from the respondents herein.
 - e. Despite the Claimant's persistent requests and demands to be paid, the dues owed to him by the Respondents, they have without any colour of right or justifiable cause refused, declined and or ignored to pay the said amounts of money.
2. The Respondents were served but did not enter appearance or file any defence to the Claimant herein. The matter was therefore on 4th October, 2022 (Mbaru, J) declared undefended and was allowed to proceed as undefended cause.
3. On 17th April, 2023 when the matter came up before me, the Claimant called one witness Mr. Benard Kinyanjui who informed the Court that he worked for the respondent as the Director, Human Resource and that he wished to adopt his witness statement and list of documents filed with the claim as his evidence in chief.
4. In his statement, he stated among others that by virtue of his office, he was privy to all records relevant to demonstrate the respondent's liability in the matter. From the record, the respondents were the claimant's employees as per their letters of appointment filed in Court. The Claimant's disengaged themselves from work in an illegal manner by failing to provide one month's notice or salary in lieu as required in their appointment letters.



5. It was further his statement that the respondents have deliberately refused to make payments despite several demands and that the Claimant now sought compensation for damages and recovery of the amounts owed to it by the respondents.
6. As observed earlier, this matter is undefended and the Claimant having reasonably shows that the respondents did not follow the law while separating from their employment with the Claimant, the Court hereby enters judgment in favour of the Claimant as prayed in the claim.
7. The Claimant shall further have costs and interest.
8. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 5TH DAY OF MAY 2023

ABUODHA J. N.

JUDGE

In the presence of:-

CR Advocates LLP for the Claimant

No appearance for the Respondents

